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MEMORANDUM

TO: Administrators of Nursing Homes, Home Health Agencies, Community Residential Care Facilities, and Day Care Facilities for Adults

FROM: Dennis L. Gibbs, Director
Division of Health Licensing

SUBJECT: Procedures for Conducting State and Federal Criminal Background Checks for Direct Caregivers.

This memorandum outlines the steps for conducting state and federal criminal background checks for direct caregivers employed or being considered for employment at your facility.

These procedures are intended as a guide only. They do not supercede applicable state regulations/laws or federal regulations/laws relevant to employee eligibility. The procedures do not address or exempt facilities from federal regulations applicable to facilities that participate in the Medicare/Medicaid reimbursement program through the Centers for Medicare and Medicaid Services (CMS), (See Enclosure 1 for Website References and contact information).

Effective July 6, 2004, §§ 44-7-2910 and 44-7-2920 of Chapter 7, Title 44, Article 23, "Criminal Records Checks of Direct Care Staff", of the 1976 SC Code of Laws, were amended. § 44-7-2910 states that "A direct care entity employing or contracting with a direct caregiver shall conduct a criminal record check as provided in this section prior to employing or contracting with the direct caregiver." § 44-7-2920 deleted the provision authorizing a direct care entity to temporarily employ a person pending the results of the criminal record check.

The enclosures to this memorandum will explain in detail the individuals who are required to have a background check and the procedure for having a background check conducted. Following the procedures and requirements described in the enclosures will facilitate the criminal background check process required by Article 23.

Should you have any questions, please contact the Division of Health Licensing at the address above, by phone at (803) 545-4049, or by e-mail at barretkl@dhec.sc.gov.

DG:JR:jr

Enclosures: (1-7 also on Website at <http://www.scdhec.gov/hr/licen/memo1g.htm>)

1. Procedures for Conducting a Criminal Background Check
2. Figures 1-5: Flow Charts and Fingerprint Card Examples
3. Article 23, Criminal Records Checks of Direct Care Staff
4. Organizations Conducting Background Checks on Behalf of a Direct Care Entity
5. Temporary Employment Organizations Providing Direct Caregivers
6. SLED Forms CJ-032, CJ-033, CJ-055, and SLED Form 110288